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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Human rights bodies and mechanisms

Final research-based report of the Human Rights Council Advisory Committee on best practices and main challenges in the promotion and protection of human rights in post-disaster and post-conflict situations

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I. Mandate and introduction

1. In its resolution 22/16, the Human Rights Council requested the Advisory Committee to prepare a research-based report on best practices and main challenges in the promotion and protection of human rights in post-disaster and post-conflict situations.

2. At its eleventh session, in August 2013, the Committee established a drafting group composed of the following experts: Chinsung Chung, Latif Hüseynov, Vladimir Kartashkin, Katharina Pabel, M. Cecilia Rachel V. Quisumbing (Rapporteur), Anantonia Reyes Prado (Chairperson) and Imeru Tamrat Yigezu. Subsequently, Karla Hanania de Varela, Kaoru Obata and Ahmer Bilal Soofi also joined the drafting group.

3. At its twelfth session, in February 2014, the Committee decided to appoint Ms. Reyes Prado as Rapporteur and Mr. Hüseynov as Chairperson of the drafting group. At its thirteenth session, in August 2014, the Committee designated Mr. Soofi as Chairperson of the drafting group to replace Mr. Hüseynov. The Committee also recommended that the Human Rights Council extend the time for the submission of the progress report, a recommendation that the Council endorsed in its decision 26/116. The Committee therefore presented the progress report to the Council at its twenty-seventh session.[1]

4. Pursuant to Council resolution 22/16, the Committee sought the views and inputs of Member States and various stakeholders. Questionnaires were prepared and disseminated in September 2013 to all Member States and to representatives of civil society and other stakeholders requesting information on experiences, best practices and main challenges faced in the promotion and protection of human rights in post-disaster and post-conflict situations. A total of 39 responses were received, including from countries that experienced post-disaster and post-conflict situations (see paras. 48 – 70 below).

5. In February 2014, the Committee, pursuant to paragraph 2 of Council resolution 22/16, decided also to seek the views of United Nations agencies. No replies were, however, received.

II. Scope

6. The title of the Committee's mandate suggests commonalities between post-disaster and post-conflict situations, which can be found in the fact that both can represent a critical threat to the health, safety, security or well-being of a community or large group of people. The Committee has therefore adopted a holistic human rights approach to post-disaster and post-conflict situations, in terms of applicability of other branches of international law, including international humanitarian law, refugee law and international criminal law, with a view to strengthened protection.

7. A post-disaster or post-conflict situation starts immediately after a disaster has occurred or after the end of a conflict. It ends once the right to life and the security, physical integrity and dignity of the affected population is protected again and the population has recovered its rights related to basic necessities of life, including economic, social, cultural, civil and political rights. Some reflection is needed on the meaning of recovery of civil life, namely whether the restoration of the status quo ante would suffice,

[1] The members of the drafting group are grateful to Veronica Sagastume, Programme Coordinator of Norwegian Church Aid in Guatemala, and leader in the ACT Alliance Forum in Guatemala, for her important input during the drafting of the present report.

since disasters or conflicts severely affect those whose living conditions are already precarious. Further thought is required on how to improve these living conditions. Special attention should be paid to the early stage of post-disaster and post-conflict situations (not excluding matters of transitional justice), because humanitarian activities are mainly developed at that stage. A holistic human rights-based approach must be also considered in the rehabilitation and reconstruction stages, as well as in resettlement processes. Protracted crisis situations should also be considered.[2]

8. While humanitarian activities mostly foster the promotion and protection of human rights, and many good practices are highlighted in the present report, experience also shows that humanitarian activities may be sometimes seriously flawed in terms of human rights. The main challenges faced in the promotion and protection of human rights in post-disaster and post-conflict situations are therefore also highlighted below.

9. A perspective that respects the protective normative framework and takes into account a human rights-based approach must already be considered prior to the disaster, and Governments should be aware of their responsibilities in the protection of their populations. That affected persons understand their rights is equally important.

III. Definitions

10. Over the past decades, the world has witnessed a significant increase in the number of disasters reported: from fewer than 100 per year reported in 1975 to more than 400 in 2010. The number of people affected and the economic damage caused by disasters have also increased.[3] Conflicts and natural disasters have multi-dimensional effects on human rights. They create crises that affect the rights to life, health and security. Crops and infrastructure are destroyed, having a long-term effect on livelihood, access to food and water, education, health care and even access to justice and other basic services. A natural disaster or conflict becomes an emergency[4] when local families and communities cannot cope with or recover from it on their own.

11. It has been estimated that complex, multi-causal crisis will become more common.[5] Bearing in mind such a multi-dimensional scope, many terms need to be considered in order to attain a better understanding of the theoretical and operative complexity of these situations.

A. Terms used in the context of post-conflict situations

International and non-international armed conflict

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[2] Protracted crisis situations are characterized by recurrent natural disasters and/or conflict, food crises, breakdown of livelihoods and insufficient institutional capacity to react to the crises. Countries in protracted crises thus need to be regarded as a special category with special requirements in terms of interventions by the development community. See "Countries in protracted crisis: what are they and why do they deserve special attention?" in *The State of Food Insecurity in the World*, Food and Agriculture Organization of the United Nations, Rome, 2010.

[3] International Federation of Red Cross and Red Crescent Societies, "Red Cross Red Crescent approach to disaster and crisis management" (available from www.ifrc.org/en/who-we-are/vision-and-mission/disaster-and-crisis-management/).

[4] Emergencies are traditionally categorized into rapid onset disasters, chronic conflicts, forgotten and cyclical.

[5] "Conflict remains an important source of vulnerability, but other hazards and risks are gaining prominence. Increasingly we will see climate change, urbanization, migration, access to food, and technological disasters all acting at once and further compounding risks and vulnerabilities". Feinstein International Centre, Three-Year Plan: January 2012 to December 2015.

12. International humanitarian law makes a distinction between an international armed conflict, whenever there is resort to armed force between two or more States, and non-international armed conflicts, which are protracted armed confrontations between governmental armed forces and one or more non-State armed groups, or between such groups only. The armed confrontation must reach a minimum level of intensity and the parties involved must show a minimum degree of organization.[6]

Peacebuilding

13. The term emerged in the 1970s in the work of Johan Galtung, who called for the creation of peacebuilding structures to promote sustainable peace by addressing the root causes of violent conflict and supporting indigenous capacities for peace management and conflict resolution. Since then, the term has covered a multidimensional exercise and tasks ranging from disarming warring factions to rebuilding political, economic, judicial and civil society institutions.[7]

Post-conflict dialogue

14. A methodical approach, focused on the importance of bringing an armed conflict to an end and moving to a peacebuilding programme. The establishment of dialogue with the other party to the conflict is a part of reconciliation and peacemaking processes. Representatives of the most vulnerable groups and affected people should be involved in such dialogue.

Post-conflict situation

15. A situation in which open warfare has come to an end. Such situations remain tense for years or decades and can easily relapse into large-scale violence. They generate enormous development challenges for the communities affected and for international actors, in vital sectors as security, justice, economic policy, education, media, agriculture, health, and environment.[8] Rebuilding institutional infrastructure shattered during conflict is as important as, if not more important than, physical infrastructure.[9]

Post-conflict reconstruction

16. A generic term referring to the rebuilding of society in the aftermath of a conflict. Physical infrastructures have to be repaired or rebuilt, governmental institutions have to be reformed, psychic traumas of civilians and combatants have to be treated, the economy has to be restarted, refugees to be repatriated, reconciliation between belligerents has to be initiated, justice to be delivered. Efforts of this type require sustained support from the international community.

Post-conflict recovery

17. The long-term rebuilding of a society in the aftermath of violent conflict. It includes political, socioeconomic and physical aspects, such as disarming and reintegrating combatants, finding durable solutions for internally displaced persons, reforming

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[6] See the ReliefWeb Glossary of Humanitarian Terms (available from http://reliefweb.int/report/world/reliefweb-glossary-humanitarian-terms) and International Committee of the Red Cross, "How is the term "Armed Conflict" defined in international humanitarian law?", opinion paper, 17 March 2008 (available from www.icrc.org/eng/resources/documents/article/other/armed-conflict-article-170308.htm).

[7] See Peacebuilding and the United Nations (www.un.org/en/peacebuilding/pbso/pbun.shtml).

[8] Gerd Junne and Willemijn Verkoren, eds., *Postconflict Development: Meeting New Challenges* (Boulder, Lynne Rienner Publishers, 2005).

[9] Lakhdar Brahimi, "State building in crisis and post-conflict countries", seventh Global Forum on Reinventing Government: Building Trust in Government, June 2007, Vienna.

governmental institutions, promoting trauma work and reconciliation, delivering justice, restarting the economy and rebuilding damaged infrastructure. Related terms include war-to-peace transitions and post-conflict reconstruction. It should be noted that the term "recovery" has a broader connotation than reconstruction, which implies an emphasis on physical aspects.[10]

Post-conflict transition

18. The tenuous period immediately following the termination of conflict during which humanitarian needs must still be met and programmes, such as those for disarmament, demobilization, reintegration and rehabilitation and for rebuilding infrastructure, remain at an early stage. This period may also involve the temporary transfer of government functions to a United Nations transitional administration, such as in the case of Kosovo and Timor-Leste.[11]

Transitional justice

19. A transitional justice system is often extremely important after a conflict or situation of violence. The States concerned should develop a strategy on transitional justice that satisfies the rights of victims by means of reconciliation and reparation mechanisms. A transitional justice strategy comprises a set of rules, public policies and institutions the goal of which is to redress the legacy of a violent past. It consists of both judicial and non-judicial processes and mechanisms that include prosecution initiatives, facilitating initiatives in respect of the right to truth, delivering reparations, institutional reform and national consultations. In this regard, international assistance must focus on the development of the national capacity to initiate and lead the process. Disarmament, demobilization and reintegration initiatives should be coordinated with transitional justice processes and mechanisms in a positively reinforcing manner.[12]

20. Post-disaster situations comprise both natural and man-made disasters. Natural disasters or hazards[13] are events brought about by natural hazards that seriously affect the society, economy and/or infrastructure of a region, such as floods, earthquakes or hurricanes that cause great damage or loss of life. Depending on population vulnerability and local response capacity, natural disasters pose challenges and problems of a humanitarian nature. By contrast, technological or man-made hazards, such as complex emergencies or conflicts, famine, population displacement and industrial or transport accidents[14] are events caused by humans and occur in or close to human settlements. This

[10] Glossary of Terms for Conflict Management and Peacebuilding, United States Institute of Peace.

[11] www.unocha.org.

[12] See S/2004/616.

[13] In the report of the Secretary-General on relief to development (A/60/89 – E/2005/79), the expression "natural disasters" was purposely not used, as it conveys the mistaken assumption that disasters occurring as result of natural hazards are wholly "natural" and therefore inevitable and outside human control. Instead, it is widely recognized that such disasters are the result of the way individuals and societies relate to threats originating from natural hazards. The nature and scale of threats inherent in hazards vary. The risks and potential for disasters associated with natural hazards are largely shaped by prevailing levels of vulnerability and measures taken to prevent, mitigate and prepare for disasters. Thus, disasters are, to a great extent, determined by human action, or lack thereof. The expression "disasters associated with natural hazards" should therefore be used, in accordance with the Hyogo Framework for Action 2005-2015, adopted in January 2005 at the World Conference on Disaster Reduction in Kobe, Hyogo, Japan.

[14] International Federation of Red Cross and Red Crescent Societies, Types of disasters: definition of hazard (www.ifrc.org/en/what-we-do/disaster-management/about-disasters/definition-of-hazard/).

can include environmental degradation, pollution, accidents and the impact of climate change.[15]

21. In the present report, the term "natural disaster" includes both sudden and slow-onset natural disasters. It is important to understand, however, that the magnitude of the consequences of sudden natural hazards is a direct result of the way individuals and societies relate to threats originating from natural hazards. The magnitude of the consequences is, thus, determined by human action or the lack thereof.[16]

B. Terms used in the context of humanitarian response

Humanitarian crisis

22. An event or a series of events representing a critical threat to the health, safety, security and/or well-being of a community or other large group of people, usually over a wide area. Armed conflicts, epidemics, famine, natural disasters and other major emergencies may all involve or lead to a humanitarian crisis that extends beyond the mandate or capacity of any single agency. An emergency is a large-scale crisis that destroys the lives of individuals, wrecks communities and overwhelms their ability to cope.[17]

23. Humanitarian crises can be grouped under three categories: Natural disasters (earthquakes, floods, storms and volcanic eruptions); man-made disasters (conflicts, plane and train crashes, fires and industrial accidents); complex emergencies (when the effects of a series of events or factors prevent a community from having access to their basic needs, such as water, food, shelter, security or health care). According to the International Federation of Red Cross and Red Crescent Societies, such "complex emergencies" are typically characterized by extensive violence and loss of life, the displacement of populations, widespread damage to societies and economies, the need for large-scale, multi-faceted humanitarian assistance, hindrance or prevention of humanitarian assistance by political and military constraints, particularly in post-conflict situations, and significant security risks for humanitarian relief workers in some areas.[18]

24. These three kinds of emergencies can have an impact on millions of people in a number of countries. In addition, there are increasingly new concepts for categorizing emergencies related to climate, technology and health pandemics.

Humanitarian action, humanitarian aid, humanitarian assistance

25. The terms "humanitarian action", "humanitarian aid" and "humanitarian assistance" are often used interchangeably in post-disaster or post-conflict situations where the principles and rules of humanitarian response are applied. For instance, according to the World Health Organization, humanitarian assistance can be divided into three categories: direct assistance, which is the face-to-face distribution of goods and services; indirect assistance, which is at least one step removed from the population and involves such activities as transporting relief goods or relief personnel; and infrastructure support, which involves providing general services, such as road repair, airspace management and power generation that facilitate relief, but are not necessarily visible to or solely for the benefit of

[15] A/66/285.

[16] Protecting Persons Affected by Natural Disasters, Inter-Agency Standing Committee Operational Guidelines on Human Rights and Natural Disasters, 2006.

[17] See Covenant Social Service, Disaster Relief: What is an emergency? (www.cssind.org/disaster-relief).

[18] International Federation of Red Cross and Red Crescent Societies, "Complex/manmade hazards: complex emergencies" (available from www.ifrc.org/en/what-we-do/disaster-management/about-disasters/definition-of-hazard/complex-emergencies/).

the stricken population.[19] The European Union for its part interprets the term "humanitarian aid" as including traditional responses to humanitarian crisis, that is, material relief assistance and services as shelters, water and medicines; emergency food aid at short-term distribution and supplementary feeding programmes; relief coordination, protection and support services like coordination, logistics and communications; reconstruction relief and rehabilitation, which involves repairing pre-existing infrastructure as opposed to longer-term activities designed to improve the level of infrastructure; and disaster prevention and preparedness in terms of disaster risk reduction, early warning systems, contingency stocks and planning.[20]

26. Irrespective of the terminology used, all humanitarian responses have the same objective: to save lives, to alleviate suffering and to maintain and protect human dignity during and in the aftermath of emergencies. They are guided by the principles of humanity, impartiality, neutrality and independence. Furthermore, during emergencies, the timeliness of humanitarian aid and the protection of vulnerable groups become vital, particularly at the stage of rescue.

IV. Affected populations

27. Persons affected by and victims of conflicts and disasters include internally displaced persons, who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or man-made disasters, and who have not crossed an internationally recognized State border, refugees, and stateless persons.

28. There are other groups of people who are particularly vulnerable in post-conflict and post-emergency situations. "Vulnerable groups" refers to all those persons that can be at risk and affected by the negative effects of disasters or conflicts. Their vulnerability will depend on their social, economic, political, cultural and ethnic position. Humanitarian action in all post-disaster or post-conflict settings should pay particular attention to women, children, older persons, persons with disabilities, indigenous peoples, minorities and LGBTI persons. It is also essential that affected populations are sensitized to the fact that they are rights-holders, not mere beneficiaries of charitable action.

A. Women and girls

29. In emergency, post-disaster and post-conflict situations, gender-based discrimination increases the vulnerability of women and girls, including those with disabilities. Protection activities established in this framework by national and international stakeholders should to adopt a holistic approach to address these issues from an institutional perspective with an impact on national policies and regulations, thus avoiding having to limit interventions to specific activities that will only respond partially to the problem.

30. Women and girls must be one of the prioritized groups for humanitarian aid, relief and recovery. Special protection approaches should be considered during the planning process of the response and humanitarian aid. Women's participation in humanitarian aid

[19] World Health Organization, Humanitarian Health Action, Definitions: emergencies (available from www.who.int/hac/about/definitions/en/).

[20] European Commission, Humanitarian Aid and Civil Protection, "Humanitarian aid", 15 April 2014 (see http://ec.europa.eu/echo/en/what/humanitarian-aid).

decision-making must also be promoted and guaranteed. Mechanisms to prevent gender-based violence, sexual harassment and rape should be put in place, as should legal aid and social assistance to victims of sexual and of gender-based violence. In situations of international or non-international armed conflict, humanitarian aid and reconciliation processes should take into account traditional practices of having women as spoils of war. In addition, women from indigenous and minority communities face multiple forms of discrimination and require specific protection measures against both gender-based discrimination and racist attitudes.

31. In its resolution 1325 (2000) on women, peace and security, the Security Council set out the international framework in this regard. In particular, it urged Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict, and called upon all actors involved, when negotiating and implementing relevant agreements, to adopt a gender perspective, including, inter alia, the special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstructions. Effective legal frameworks must prohibit and criminalize violence against women and girls, prevent violence and safeguard survivors.

B. Children

32. The United Nations Children's Fund (UNICEF) recognizes that when an emergency strikes, whether a sudden onset natural disaster or an armed conflict, children require special protection to ensure their safety and well-being.[21] The core commitments for children in humanitarian action constitute the UNICEF central policy on how to uphold the rights of children affected by humanitarian crises. In her report on the impact of armed conflict on children, the independent expert appointed by the Secretary-General in 1994, Graça Machel, called for an end to the targeting of children in armed conflicts.[22] In the report, the independent expert highlighted the fact that millions of girls and boys were victims of killing, maiming, torture, rape, sexual exploitation, abduction, forced labour and other violations of the rights of the child in pre-conflict, conflict and post-conflict situations. She recognized that girls were more vulnerable, that the recruitment and use of children in armed conflict was a violation of international law, as were the attacks on and the military use of protected places that usually have a significant presence of children, such as schools, hospitals and homes. In addition, she emphasized that the fact that children were still being shamefully abused was "clear indication that we have barely begun to fulfil our obligation to protect them".[23] Girls and boys are right-holders and therefore need to be also involved in the humanitarian assistance process.

C. Older persons

33. Older persons are among the most affected during disasters and conflicts. Disabilities, displacement, disease, malnutrition, discrimination and insecurity worsen the living conditions of the elderly during post-conflict and post-disaster situations. The needs

[21] See UNICEF, Child protection from violence, exploitation and abuse, Child protection in emergencies at www.unicef.org/protection/57929_62178.html.

[22] A/51/306.

[23] Ibid., para. 313.

of older persons should therefore be included in immediate and long-term humanitarian relief and assistance, as well as in humanitarian polices and guidelines.

D. Persons with disabilities

34. Persons with disabilities[24] are disproportionately affected in situations of disaster and conflict because many of the resources for humanitarian aid, shelter and assistance become inaccessible for them. In addition, there is a direct correlation between discrimination against persons with disabilities and insufficient resources. Humanitarian aid, rescue, relief and rehabilitation should therefore meet the needs of the whole population and also include the participation of persons with disabilities in all stages of emergency response. Disability in post-disaster and post-conflict situations also rises because people are injured and need specialized assistance and resources.[25]

E. Indigenous peoples and minorities

35. Indigenous peoples[26] and minorities[27] have traditionally been excluded from development. Their settlements are mainly in rural areas, which are prone to natural hazards and high levels of poverty. This places them at risk in the event of disasters and conflicts. It is important to recognize and better understand indigenous peoples and minorities, and to boost their knowledge of mechanisms established for disaster risk reduction.[28]

F. LGBTI persons

36. Stigmatization and discrimination based on sexual orientation increase gender-based violence in post-conflict and post-disaster situations, negatively affecting LGBTI persons with regard to the provision of food assistance, shelter and humanitarian aid.

V. A human rights-based approach

37. Human rights are the universal legal guarantees that protect individuals and groups against actions and omissions interfering with fundamental freedoms, entitlements and human dignity.[29]According to UNICEF, human rights principles and values are not only the

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[24] See Convention on the Rights of Persons with Disabilities, art. 1.

[25] See the report on the Panel Discussion on Disaster Resilience and Disability: Ensuring Equality and Inclusion, United Nations Headquarters, 10 October 2013.

[26] See E/CN.4/Sub.2/1986/7 and Add. 1-4. For the concept of "indigenous and tribal peoples", see the Convention concerning Indigenous and Tribal Peoples in Independent Countries, art. 1. See also "The concept of indigenous peoples", Department of Economic and Social Affairs, Secretariat of the Permanent Forum on Indigenous Issues, Workshop on data collection and disaggregation for indigenous peoples, New York, 19–21 January 2004.

[27] It is not possible to conclusively define the concept of minority or even to identify existing minorities, or build a conclusive list of minorities. See José Bengoa, "Minorías: existencia y reconocimiento", working paper (E/CN.4/Sub.2/AC.5/2000/WP.2). See also the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (General Assembly resolution 47/135, annex).

[28] R. Shaw et al, "Indigenous Knowledge – Disaster Risk Reduction", policy note, European Union, UNISDR, Kyoto University, 2008.

[29] OHCHR, Frequently asked questions on a human rights-based approach to development cooperation,

foundation for development, but also for the response in emergencies. Human rights principles of universality and non-discrimination mean that the promotion of social inclusion, equality and justice should be central concerns.[30]

38. The human rights-based approach is a conceptual framework for the process of human development that is normally based on international human rights standards and operationally aimed at the promotion and protection of human rights. It seeks to analyse the inequalities that lie at the heart of development problems and those in emergency situations, as well as to redress discriminatory practices and the unjust distribution of power, which impede development.

39. A human rights-based approach identifies rights-holders and their entitlements, and corresponding duty-bearers and their obligations, working towards strengthening the capacities of rights-holders to make their claims and of duty-bearers to meet their obligations. It is based on the premise that the empowerment of rights-holders and the challenging of duty-bearers are in themselves important results. It recognizes every human being both as a person and as a right-holder and envisages the guarantee of human rights protection and accomplishment, mainly by the States and other actors in emergency situations and humanitarian response.

40. A human rights-based approach requires that the following principles and standards derived from human rights treaties guide all humanitarian response:

(a) Universality: human rights must be afforded to everyone, without exception;

(b) Indivisibility: human rights are indivisible and interdependent;

(c) Participation and consultation: people from all sectors have to participate in the decisions to protect their rights and their opinions must be taken into account;

(d) Non-discrimination: human rights must be guaranteed without discrimination of any kind, with due regard for the special needs of victims, particularly vulnerable persons, especially in relation to policies and practices that may have a discriminatory effect on, for instance, persons with disabilities owing to their lack of inclusiveness and accessibility;

(e) Accountability: mechanisms of accountability should be created for the enforcement of rights. A human rights-based approach in post-disaster and post-conflict situations emphasizes measurable and enforceable obligations through mechanisms of accountability, which helps to strengthen political commitment and justifications for resource allocation, and improves incentives for the provision of social services without discrimination.[31] This approach therefore opens up international mechanisms of human rights accountability and oversight in such contexts.[32] Furthermore, accountability is a process that helps to identify what works, so it can be repeated, and what does not, so it can be revised. It is a way of checking that reasonable balances are fairly struck;[33]

New York and Geneva, 2006.

[30] UNICEF, "A human rights-based approach to programming in humanitarian crises: is UNICEF up to the challenge?", 2003.

[31] See "Towards freedom from fear and want: Human rights in the post-2015 agenda", Thematic Think Piece, OHCHR, May 2012, pp 6–7.

[32] See Dug Cubie and Marlies Hesselman, "Accountability for the human rights implications of natural disasters: a proposal for systemic international oversight", *Netherlands Quarterly of Human Rights* (forthcoming March 2015).

[33] A/HRC/7/11, para. 99.

(f) Transparency: Governments and humanitarian partners, both national and international, must be transparent about all information and decision-making processes relating to rights. Decision-makers wanting to manage emergency situations, however, sometimes do not disclose certain information relevant to disaster mitigation. Governments, should, in principle, disseminate all relevant information to the general public. Information should not be distorted to prevent social panic. It is indeed foreseeable that, in the process of disseminating information, some simplification would be not only inevitable but even necessary. It is important to highlight, however, that, in such circumstances, such government initiatives and accountability require records to be kept of the decision-making process;

(g) Do no harm or do less harm: although aid can become part of the dynamics of a conflict and may even prolong it, humanitarian organizations must strive to "do no harm" or to minimize the harm they may be inadvertently doing simply by being present and providing assistance.[14]

41. In the programme for reform (1997),[15] and its second phase, an agenda for further change (2001),[16] the Secretary-General called upon United Nations agencies to make human rights a cross-cutting priority for the United Nations system. In 2003, a group of United Nations agencies, including the United Nations Population Fund (UNFPA), committed to integrating human rights into their national development cooperation programmes by adopting a common understanding on a rights-based approach.[17] In November 2013, the Secretary-General launched the "Human Rights Up Front" initiative, which aims at improving the United Nations response to safeguard human rights in complex crises and prevent horrendous human suffering. The need for early action, and the crucial role of responding early to human rights violations, is at the heart of the initiative. Though framed in terms of the protection of human rights, it also includes the task of protection of civilians, with the importance of preventive efforts being consistently emphasized. Another central aspect is better organizational preparedness by the United Nations. The Secretariat and United Nations agencies, funds and programmes are to ensure that the United Nations System, both on the ground and at Headquarters, is appropriately prepared – early on – to deal with evolving crisis situations.

42. There seems to be a cyclic process between human rights violations, humanitarian crises and humanitarian response. Although this cyclic dynamic is not necessarily a lineal process, some stages have been identified, both for conflicts and natural disasters. According to OHCHR, when human rights violations are a consequence of conflict situations, the sequence of events is as follows:

(a) Human rights violations as causes of conflict;

(b) Humanitarian crisis;

(c) New violations: consequences of conflict and humanitarian crises;

(d) Pre-existing human rights issues are exacerbated;

(e) Human rights promotion and protection as objective of peace agreements.[18]

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[14] The "do no harm" principle, developed by Mary B. Anderson in the 1990's, has developed into an approach, inspiring a series of training workshops for humanitarian workers.

[15] A/51/950.

[16] A/57/387 and Corr.1.

[17] UNFPA, "The Human Rights-Based Approach", available at www.unfpa.org/rights/approaches.htm.

[18] See OHCHR, International Legal Protection of Human Rights in Armed Conflict (New York and Geneva, 2011).

43. Lastly, when human rights violations are a consequence of natural disasters, OHCHR sees the sequence of events as follows:

(a) Natural disaster;

(b) Humanitarian crisis;

(c) Pre-existing human rights issues are exacerbated and new violations as consequences of the disaster;

(d) Human rights inform planning and delivery of humanitarian response;

(e) Human rights integrated into emergency preparedness plans.

VI. International normative framework

A. United Nations human rights framework and mechanisms

44. To increase the effectiveness and scope of human rights protection in post-disaster and post-conflict situations, there is a need for a holistic and complementary approach among the different branches of international law: international human rights law, international humanitarian law, refugee law and international criminal law. The international human rights legal framework is composed of specific treaties and soft law that aim to protect people affected by natural disasters and conflicts. As protection is not limited to survival and security in an emergency situation, all relevant guarantees with regard to civil and political rights, as well as economic, social and cultural ones, will contribute to dignify the people affected.

45. Some of the key principles in relation with humanitarian assistance were formulated by the General Assembly in its resolution 43/131 on humanitarian assistance for victims of natural disasters and similar emergency situations, in which the Assembly reaffirmed the sovereignty of affected States and their leadership in humanitarian assistance in their own territories, stressed the important contribution made in providing humanitarian assistance by governmental and non-governmental organizations, and urged States to participate closely with affected countries in international efforts with a view to facilitating the transit of humanitarian assistance.

46. States therefore have the primary responsibility for coordinating humanitarian assistance, and are at least under the moral duty to accept bona fide offers of assistance by States or other relevant organizations. This emphasis on the States' role does not however, go to the detriment of the role of local communities and the fact that planning for disaster risk reduction should be rather de-centralized and concretized.

47. The Universal Human Rights Index documents a number of concrete recommendations, made in the context of the universal periodic review in relation to humanitarian action in situations of natural disasters, that relate primarily to strengthening or improving measures for disaster reduction and to responding appropriately to emergencies, given the vulnerability of certain countries. Other countries were asked to continue their efforts to strengthen and to share their experience, lessons learned, methods and best practices in prevention and humanitarian response applied and particularly considering providing assistance in case of natural disasters and taking positive steps with regard to climate change. Several recommendations relate to post-conflict situations and to continuing implementation of the Security Council resolutions on women, peace and security; ensuring the rights of children and women and women's participation in reconstruction and peacebuilding processes; improving access to education; intensifying efforts to prevent, punish and eradicate all forms of violence against women; preventing

and combating widespread economic exploitation of children; and strengthening institutional capacities in the protection and promotion of human rights in post-conflict situations through the incorporation of a human rights-based approach into all policies and practices.

48. In its resolution 1325 (2000) on women, peace and security, the Security Council reaffirmed the important role of women in the prevention and resolution of conflicts, peace negotiations, peacebuilding, peacekeeping, humanitarian response and in post-conflict reconstruction, and stressed the importance of their equal participation and full involvement in all efforts for maintenance and promotion of peace and security. It urged all actors to increase participation of women and incorporate gender perspectives in all United Nations peace and security efforts. It also called upon all parties to the conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, in situations of armed conflict. It provided a number of important operational mandates, with implications for Member States and United Nations entities.

49. Similarly, article 11 of the Convention on the Rights of Persons with Disabilities not only enshrines obligations to ensure protection and safety of persons with disabilities in situations of armed conflict and humanitarian emergencies, but also requires an inclusive approach for the design of disaster risk reduction policies accessible to persons with disabilities.

50. In recent years, attention has been drawn in particular to humanitarian aid and assistance owing to emergencies provoked by armed conflicts and disasters around the world, leading to the development of a specialized framework and mechanisms, including:

(a) Humanitarian policies, agreements, guidelines, documents and tools of the Inter-Agency Standing Committee[39] for humanitarian assistance, such as the Humanitarian Charter and Minimum Standards in Disaster Response, the Guidelines on Mental Health and Psychosocial Support in Emergency Settings, the Gender Handbook in Humanitarian Action, the Operational Guidelines on Human Rights and Natural Disasters and the Guidelines on Gender-Based Violence Interventions;

(b) The Sphere Project, a voluntary initiative that brings together a wide range of humanitarian agencies around the common aim of improving the quality of humanitarian assistance and accountability of humanitarian actors to their constituents, donors and affected populations. Established in 1997, it is today a vibrant community of humanitarian response practitioners.

51. Other important humanitarian mechanisms include:

(a) The Humanitarian Accountability Partnership, which has established concrete norms, training, code of conduct, protection of sexual exploitation and abuse[40] guidance and certification;

(b) The Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters;

(c) The Global Humanitarian Platform, established to bring together United Nations and non-United Nations humanitarian organizations to explore ways of exploring humanitarian partnerships;

[39] Established pursuant General Assembly resolution 46/182.

[40] See Protection from Sexual Exploitation and Abuse by UN and Related Personnel (www.un.org/en/pseataskforce).

(d) The Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, adopted at the thirtieth International Conference of the Red Cross and Red Crescent in 2007, and the Code of Conduct in the event of disasters;

(e) The International Law and Standards Applicable in Natural Disaster Situations of the International Development Law Organization;

(f) The World Vision Minimum Inter-Agency Standards for Protection Mainstreaming;[41]

(g) The Food Assistance Convention.

B. International humanitarian law and mechanisms

52. The Geneva Conventions and the Additional Protocols thereto are at the core of international humanitarian law, the body of international law that seeks to limit the effects of armed conflict. They restrict the means and methods of warfare and protect people who are not or no longer participating in hostilities (civilians, medical and other health professionals, humanitarian personnel, the wounded, sick or shipwrecked, or prisoners of war). The Conventions and the Protocols thereto call for measures to be taken to prevent or to put an end to all violations of international humanitarian law. They contain stringent rules to deal with "grave breaches". Those responsible for grave breaches must be sought, tried or extradited, whatever their nationality.

53. The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Its work is based on the Geneva Conventions of 1949, the Additional Protocols thereto, its Statutes, the Statutes of the International Red Cross and Red Crescent Movement and the resolutions of the International Conferences of the Red Cross and Red Crescent. ICRC addresses the effects of conflict by, for instance, focusing attention on refugees and displaced persons (in complementarity with the Office of the United Nations High Commissioner for Refugees (UNHCR)), mine clearance, training armed forces in the use of legitimate force, doctrine development and counselling. One of its main activities is also the search for missing persons; in this area, it has formulated an international standard of ante- and post-mortem using forensic DNA analysis. ICRC forms part of the International Red Cross and Red Crescent Movement. Seven fundamental principles guarantee the continuity of the Movement's work: humanity, impartiality, neutrality, independence, voluntary service, unity and universality.

C. Regional institutions and mechanisms for humanitarian aid and assistance

54. Various regional, subregional and national multi-sectoral and multi-stakeholder initiatives evaluate and implement humanitarian assistance and human rights law in post-disaster and post-conflict situations.

[41] Available from http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_3752.pdf.

55. In Africa, the initiatives implemented include Africa Humanitarian Action; the Programme of Action for the Implementation of the Africa Regional Strategy for Disaster Risk Reduction; the African Union Commission, which facilitates and coordinates the implementation of the Regional Strategy, the Programme of Action and the Hyogo Framework for Action; the Africa Regional Platform for Disaster Risk Reduction; periodic high-level meetings of the African Ministerial Conference on Disaster Risk Reduction and the African Ministerial Conference on the Environment; regional economic communities; and the Planning and Coordinating Agency of the New Partnership for Africa's Development (NEPAD).

56. Important initiatives in Asia include Asian Disaster Reduction and Response Network and the Asian Disaster Preparedness Center.

57. In Latin America, several intergovernmental bodies have been established, including the Organization of American States, with the working group of the Inter-American Network for Disaster Mitigation; and the Community of Latin American and Caribbean States, with the Risk, Emergency and Disaster Task Force Inter-Agency Work Group for Latin America and the Caribbean. The following mechanisms and forums have also been created: the Caribbean Disaster Emergency Management Agency; the Ibero-American General Secretariat; the Coordination Center for the Prevention of Natural Disasters in Central America; and the Comprehensive Risk Management Policy for Central America.

58. In Europe, the Emergency Response Coordination Centre, operated within the Directorate General for Humanitarian Aid and Civil Protection, was established to ensure a coordinated, more rapid response to disasters both inside and outside Europe, using the resources of the 32 countries participating in the European Union Civil Protection Mechanism.

VII. Good practices

A. National legal frameworks and mechanisms

59. Governments should not use humanitarian assistance for political purposes. Similarly, political parties should not take advantage of an emergency to better position themselves among the population. Political patronage should be avoided in post-disaster and post-conflict situations; affected populations, like any other individual or community, continue to have rights and to be voters. In this regard, the responses received from Member States to the questionnaire concerning their legal frameworks and the mechanisms for responding to emergencies resulting from disasters or conflicts from a rights-based approach are described below.

60. Slovakia is working to ensure that the Act on State Security in times of War and Hostilities, Martial Law and Emergency State allows for the distribution of vitally important products and goods to citizens affected by a crisis.

61. In Colombia, Law No. 1523 stipulates that humanitarian assistance must be provided on the basis of the principles of equality, timeliness, relevance and effectiveness. Article 1 of the law stipulates that all individuals are to receive the same support and the same treatment in situations of disaster and danger. A manual on the standardization of humanitarian assistance details more principles.

62. In Chile, the national civil protection and emergency system is based on the Constitution of the State. To enforce the guarantees enshrined in the system, particularly with regard to disasters, a number of relevant laws and regulations have been formulated.

63. In Mexico, as part of the national strategy to respond to humanitarian crises, the General Civil Protection Act has been adopted to provide for the establishment of a national mechanism for disasters from the viewpoint of integrated risk management, known as the national system of civil protection (Sistema Nacional de Protección Civil).

64. In Japan, various measures have been taken to improve: its guidelines on nuclear emergency preparedness and emergency response; the scope and extent of basic and detailed health management surveys; dose limits of radiation; access to accurate information on radiation and its health effects; transparency and accountability of the nuclear industry and regulatory authority; and the participation of affected communities in decision-making processes.

65. In addition to the above good practices, it is equally important that national laws for disaster risk reduction be enacted to make provisions for the concrete allocation of funds to disaster risk reduction. Evidence abounds of the immediate and direct effects that natural disasters and conflicts have on the economy of communities and countries, in addition to their long-term impact. In most disasters, the bulk of immediate damage comes from destroyed assets (stock), such as buildings, infrastructure, inventories and growing crops. Disasters also generate short- and long-term losses in economic activity and income (flow) in affected areas, as people and companies lose their means of production and access to markets. Economic activity picks up gradually during the years of reconstruction, starting with emergency response and humanitarian assistance. Capital assets can be regenerated through reconstruction investment, which generates income as work progresses. Such natural disasters as storms and droughts have, according to one study, a moderate but negative, permanent impact on income growth.[42]

66. The above-mentioned examples would indicate that Africa and Latin America have improved their multilevel and multisectoral work on emergency preparedness and humanitarian response, the result of the effects they have had to face in the conflicts and disasters experienced in recent decades.

B. Participation of the community and the persons affected

67. Humanitarian assistance is developed in a comprehensive framework where legal, social, political, ethical and cultural relations need to be taken into account. In the legal framework, the State is the duty-bearer while people and communities are rights-holders, not just the recipients of aid. This issue is a central theme in education, formal and informal processes linked to disaster prevention and reduction, rehabilitation and reconstruction. Some initiatives could be put in place in this regard:

(a) Community participation programmes, which should be accessible to and inclusive of rural, indigenous and displaced communities, women and girls and persons with disabilities; actions in the field of risk microzonation should consider community involvement and identify the specific characteristics of the affected community;

(b) Specific school safety plans should be developed and include other forms of institutions, such as special schools;

[42] Statistical Yearbook for Asia and the Pacific 2011, "Assessing economic impact of natural disasters: A mix of stock-and-flow indicators" (see www.unescap.org/stat/data/syb2011/II-Environment/Natural-disasters.asp).

(c) Cultural patterns that allow women and men to participate equally in decision-making processes at home and in the community on health and other issues need to be taken into account.

68. Measures to rebuild local communities following their destruction by disasters are essential. Affected populations are, as a result, forced to live in a totally new environment, such as in temporary housing units, shelters and camps. It is recognized fact that, although affected populations are expected to build a new community themselves, not all of them can adjust to a new environment.

69. Individuals, as rights-holders, have the right to participate in the design and evaluation of policies relating to their resettlement. The participation of victims and affected persons ensures the transparency of administration and contributes to the sustainability of humanitarian aid, relief and recovery actions. Local authorities have the obligation to consult and involve the persons concerned during the early stages to avoid a further gap in communication with beneficiaries.

70. The private sector and civil society also play and important role. States, for instance, can promote prior agreements with companies in order to avoid price speculation and shortages, and can also buy from local producers in order to improve the local economy. Rising food prices hinder access to food to millions of people, even when products are available. In addition, the final increase in food prices does not correspond to prices of producers, who continue to earn very little from selling their crops, and thus perpetuates their poverty and worsens their situation in emergencies.

C. Gender focus

71. One best practice identified from the responses received concerned the consideration of gender issues in disaster responses; for example, the provision of personal hygiene kits, food and water supplies, differentiated between men and women.

72. A gender-based approach takes into account the specific needs of women; for example, more toilets need to be built for women because they usually carry their children with them. While the "code of conviviality" establishes that common kitchen brigades should be mixed to favour gender equality, shelters should have separate restrooms for men and women, and a private room for intimate cleaning for women. Protection mechanisms for gender-based violence and rape are another example. Women and girls, and in particular those with disabilities, often are victims of not only rape and sexual harassment but also trafficking and negative coping strategies. For example, they may be at a high risk of sexual assault when they collect water or go to the restroom; good lighting is therefore essential.

73. As women, girls, older persons and children are also at risk of domestic violence, centres for psychological assistance and legal aid ought to be in place. Shelters for women and children survivors of violence could be considered part of humanitarian aid.

74. There is a need to develop thematic guidelines on female empowerment, and on children and persons with disabilities in post-disaster and post-conflict situations. With regard to children, special attention should be paid to former child soldiers and victims of any form of violence. Secure playing areas for children and parents need to be put in place in order to encourage solidarity and to ensure the mental health of affected persons.

75. Women's involvement in the delivery of humanitarian aid supplies and arrangements is important in order to avoid preferential treatment towards men and for women's empowerment in the community. Women should not have to bear the burden of caring alone for their families; they should not be sexually abused in return for food or other kinds of assistance; they need to have the same access to services and assistance as

men; and it should not be forgotten that they often take care of their children and elderly family members as well.

D. Respect for cultural values

76. Providing food and clothes requires taking into account traditional and cultural practices. There is also a need to increase indigenous community awareness of support and resilience, which are important for the recovery of livelihoods of the affected persons on their own territory or on a new one. Information on universal design and accessibility should also be considered and welcomed for persons with disabilities.

77. Humanitarian kits responding to cultural practices and the needs of the population in terms of food, kitchen, home and cleaning are indispensable. Support programmes for nutrition should be designed in accordance with cultural requirements relating to food and the nutritional needs of women, girls, children, including those with disabilities, and targeted populations.

E. Multilevel approach

78. Humanitarian aid is based on legal and operational frameworks at the international, regional, national and local levels, which therefore also calls for a multilevel approach to facilitate the decentralization of such an emergency response.

79. Since local governments and traditional authorities are normally the closest to the affected populations, their experience and lessons learned should be considered for emergency response planning and implementation. Municipal governments should make reasonable efforts to ensure adequate and decent living conditions in shelters. To that end, guidelines should be elaborated and published for managing shelters, and identify areas where special attention is necessary in assisting vulnerable groups.

80. A regional approach is also necessary, given that regional organizations and mechanisms have significant expertise and resources to offer when dealing with disaster situations. Regional initiatives in humanitarian aid should also be taken into account.

81. Disaster prevention and disaster risk reduction include practices to prevent serious human rights violations and to avoid the historical accumulation of violations of economic, social and cultural rights, including the right to food.

VIII. Challenges

82. The main challenge is to develop humanitarian responses and actions by States and specialized, global and national initiatives that fully take into consideration the protective legal framework granted by international human rights law, international humanitarian law and other relevant branches of international law. A human rights-based approach is important because it insists on rights-holders and duty-bearers. By putting the needs of victims at its centre, international humanitarian law is not less important. It further strengthens the protection and assistance afforded to affected populations. They should frame, with other relevant branches of international law, all humanitarian work related to disasters and conflicts. Furthermore, both international humanitarian law and international human rights law support the recognition and prosecution of grave human rights violations or serious violations of international humanitarian law in the context of armed conflict. If humanitarian assistance is not based on such a framework, there is a risk that this approach will be too limited and not integrate all the basic needs of affected people in the wider

planning process, as well as the responsibility of the State to lead the recovery process. There is also a risk that some important issues will be postponed to recovery and reconstruction, and will thus not be included in the State's development strategy. Another key challenge is that reconstruction efforts, an essential part of recovery, are too often neglected.

83. In the rush to provide humanitarian aid and save lives, less attention is paid to the human rights protection that must be provided to people affected by disasters and conflicts. In addition, not much attention is paid to the rights of vulnerable persons.

84. Access to water was identified as a significant challenge following disasters and was described as fundamental to prevent rape. Women are most vulnerable when they are required to walk long distances to reach water. In addition, there are difficulties in the provision of water supply based on international standards for hygiene and clean water. Women's particular requirements should be assessed in the case of emergency response. Lack of access to aid supplies, information, communication and services also needs to be addressed if the inclusiveness of persons with disabilities in disaster risk reduction policies is to be guaranteed.

85. States must step up their efforts in the prevention of domestic violence and gender-based violence in post-conflict and post-disaster situations. Information and comprehensive assistance are needed to support women and children survivors of violence both in and outside the emergency areas, for example in host communities. It is important to offer special attention, which integrates a cultural approach, to displaced persons, persons with disabilities, LGBT persons, older persons and indigenous peoples. States, through the implementation of the four pillars described in Security Council resolution 1325 (2000) – participation, protection, prevention, and relief and recovery – should promote the pivotal role that women play in conflict management, conflict resolution and sustainable peace, because they are still excluded from participation in peace processes. Procedures and mechanisms should be developed to involve women in protection, prevention and relief and recovery stages. Pursuant to Council resolution 1820 (2008), States are also required to establish the framework and mechanism to protect women, girls and children from violence, including sexual violence in situations of armed conflict.

86. It is also important to avoid political favouritism so that relief is guaranteed for all concerned, not just for political supporters. Governments should not use humanitarian attention for political purposes, and political parties should not use emergency situation for better positioning themselves among the population.

87. Other identified challenges include:

(a) Lack of awareness of the Operational Guidelines on the Protection of Persons in Situations of Natural Disasters;

(b) Lack of adequate internalization of the duties and rights with regard to the promotion and protection of human rights in situations of natural disasters, essential for their proper implementation;

(c) Poor decentralization of policies applied to disaster prevention and disaster risk reduction;

(d) Lack of inclusiveness of and accessibility to at-risk groups, including women, children, older persons, persons with disabilities and indigenous peoples, as well as the lack of involvement and partnership with private actors.

88. Laws should be in place for disaster prevention and mitigation, and States should be obliged to allocate the resources required to improve the living conditions of persons affected by disaster and conflict.

89. In some States, constitutional rights may be limited, for instance when a state of emergency has been declared. Even in states of emergency resulting from disaster or conflict, however, the State must respect the core of human rights and ensure that the specific legislations respects its own Constitution, international human rights treaties and the rules contained in international declarations on humanitarian assistance.

90. States invest financially in humanitarian disaster and conflict relief in a planned way, avoiding budgetary risks that jeopardize public investment in normal times. The establishment of national funds for recovery and reconstruction could be important initiatives.

91. Local mechanisms for denouncing violations of human rights and international humanitarian law in disaster and conflict situations should be put in place to ensure the safety, security and freedom of the persons affected. Complaints and feedback systems can be designed and implemented as participatory processes, as can democratic-based actions.

92. In recent times, the term "disaster prevention" has often been coupled with "disaster mitigation" or "disaster risk reduction". This may have been caused by the growing awareness that "hazards are inevitable, and the elimination of all risks is impossible".[43] In the case of disasters, too much emphasis on prevention in planning to address disasters might lead to the dissemination of an unfounded belief in safety. To achieve the ultimate and foremost goal of saving lives, more attention should be paid to preparedness, early warning and risk reduction.

93. The first action for preparedness for a disaster would, therefore, be to search what types of risks exist in a particular area of the country, and then to raise public awareness of those risks. Unsound economic and urban development often leads to great loss of human life by natural hazards, besides reducing the sustainability of development. The perspective of risk reduction should therefore be incorporated into national development plans.

94. The main challenges in peacebuilding and transitional justice are the allocation of inadequate funds and the awareness of the international community that the resilience of livelihoods is fundamental for peacebuilding and understanding the interdependence of civil, political, economic, social and cultural rights.

IX. Main conclusions

95. **Although rescue, relief and rehabilitation action should be compliant with human rights, this is not always the case. A human rights-based approach includes the principles of direct and intentional linkage to human rights; transparency; participation, inclusiveness and consultation of those affected and beneficiaries; non-discrimination; special attention to the needs of at-risk and marginalized groups within the larger set of beneficiaries; and accountability and timeliness.**

96. **Humanitarian intervention should take into account legal, social, political, ethical and cultural relations. It is fundamental that the legal framework underline that the State holds obligations and individuals and communities hold rights.**

97. **To increase the effectiveness and scope of human rights protection in post-disaster and post-conflict situations, a holistic and complementary approach among the different branches of international law is necessary.**

[43] See United Nations Office for Disaster Risk Reduction, "A Safer World in the 21st Century: disaster and risk reduction", available at www.unisdr.org/who-we-are/international-strategy-for-disaster-reduction.

X. Recommendations

98. **Member States should recall that the full respect of all human rights and other relevant branches of international law can ensure adequate protection in humanitarian action in post-conflict and post-disaster situations. Rights relating to the basic necessities of life (in particular relating to food, drinking water, shelter, clothing, adequate health services and sanitation), physical security and integrity (protection of the right to life and the right to be free of assault, rape, arbitrary detention and kidnapping, and threats to these rights), civil and political protection needs (rights to religious freedom and freedom of speech, personal documentation, political participation, access to courts, and freedom from discrimination) and other economic, social and cultural protection needs (such as access to education, to receive restitution or compensation for lost property and to work) should be protected and respected through the design and implementation of concrete initiatives and mechanisms at all levels.**

99. **Approaches that are participatory, gender-based, culturally sensitive, accountable, anti-discriminatory and comprehensive, and that adhere to the principles of universal design, accessibility and inclusiveness and "do no harm" must be included in all humanitarian aid plans and mechanisms during the design, rescue, relief and recovery phases. These programmatic and political issues allow for better application of international human rights law and international humanitarian law standards, and offer a comprehensive response to crises. Mechanisms for respect of human rights of the most vulnerable groups should be defined in preparedness for disasters.**

100. **States should also recognize the need of specific funding for emergency response, relief and reconstruction. The allocation of funds for that purpose should be a priority in the annual national budget. In addition, States should identify long-term development budgets – and not only with costs of recovery and reconstruction – to avoid the accumulation of damage.**

101. **Special attention should be paid to the protection of human rights of vulnerable persons, in particular women, children, older persons, displaced persons and persons with disabilities. The vulnerability of children, particularly girls, is a priority when planning prevention and humanitarian assistance. Attacks on places usually frequented by children, such as schools, hospitals, parks and their own homes, should be strongly condemned and avoided at all costs. The protection of such sites should be a priority for United Nations peacekeepers.**

102. **Since there are many cases of States occupying the territory of other States, it is important to highlight that, in the event of armed conflict, the occupying force is responsible for the respect of international humanitarian law and the protection of the human rights of the population of the occupied State.**

103. **Ensuring a human rights-based approach implies a high standard of accountability. States that do not effectively protect their population during and after a conflict or a disaster should therefore be held accountable.**

104. **Taking into account that rescue, relief and recovery actions will depend on the context on the ground, humanitarian action may sometimes be at risk of infringing or violating the human rights of the affected people, thus contravening the "do no harm" principle. For that reason, plans for emergency preparedness and humanitarian aid should be based on the human rights framework in order to prevent the living conditions of the affected population from worsening during the delivery of humanitarian assistance.**